



General Assembly

## ***Amendment***

***February Session, 2016***

**LCO No. 5894**



Offered by:  
REP. SCOTT, 40<sup>th</sup> Dist.

To: Senate Bill No. 131

File No. 122

Cal. No. 554

### ***"AN ACT CONCERNING THE WORKING GROUP ON BEHAVIORAL HEALTH UTILIZATION."***

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Subsection (c) of section 17a-498 of the general statutes is  
4 repealed and the following is substituted in lieu thereof (*Effective*  
5 *October 1, 2016*):

6 (c) (1) The court shall require the [certificates] certificate, signed  
7 under penalty of false statement, of [at least two impartial physicians]  
8 an impartial physician selected by the court, [one of whom] who shall  
9 be a practicing psychiatrist, [and each of whom] who shall be licensed  
10 to practice medicine in the state, [of Connecticut and shall have] who  
11 has been a practitioner of medicine for at least one year and who shall  
12 not be connected with the hospital for psychiatric disabilities to which  
13 the application is being made, or related by blood or marriage to the  
14 applicant, or to the respondent. Such [certificates] certificate shall  
15 indicate that [the physicians have] such physician has personally

16 examined the respondent not more than ten days prior to such  
17 hearing. The court shall appoint such [physicians] physician from a list  
18 of physicians and psychiatrists provided by the Commissioner of  
19 Mental Health and Addiction Services and such [appointments]  
20 appointment shall be made in accordance with regulations  
21 promulgated by the Probate Court Administrator in accordance with  
22 section 45a-77. [Each such] The physician shall make a report on a  
23 separate form provided for that purpose by the Probate Court  
24 Administrator and shall answer such questions as may be set forth on  
25 such form as fully and completely as reasonably possible. Such form  
26 shall include, but not be limited to, questions relating to the specific  
27 psychiatric disabilities alleged, whether or not the respondent is  
28 dangerous to himself or herself or others, whether or not such illness  
29 has resulted or will result in serious disruption of the respondent's  
30 mental and behavioral functioning, whether or not hospital treatment  
31 is both necessary and available, whether or not less restrictive  
32 placement is recommended and available and whether or not the  
33 respondent is incapable of understanding the need to accept the  
34 recommended treatment on a voluntary basis. [Each such] The  
35 physician shall state upon the form the reasons for his or her opinions.  
36 Such respondent or his or her counsel shall have the right to present  
37 evidence and cross-examine witnesses who testify at any hearing on  
38 the application. If such respondent notifies the court not less than three  
39 days before the hearing that he or she wishes to cross-examine the  
40 examining [physicians] physician, the court shall order such  
41 [physicians] physician to appear.

42 (2) The court shall cause a recording of the testimony of such  
43 hearing to be made, to be transcribed only in the event of an appeal  
44 from the decree rendered under this section. A copy of such transcript  
45 shall be furnished without charge to any appellant whom the Probate  
46 Court finds unable to pay for such copy. The cost of such transcript  
47 shall be paid from funds appropriated to the Judicial Department.

48 (3) If the court finds by clear and convincing evidence that the  
49 respondent has psychiatric disabilities and is dangerous to himself or

50 herself or others or gravely disabled, the court shall make an order for  
51 his or her commitment, considering whether or not a less restrictive  
52 placement is available, to a hospital for psychiatric disabilities to be  
53 named in such order, there to be confined for the period of the  
54 duration of such psychiatric disabilities or until he or she is discharged  
55 or converted to voluntary status pursuant to section 17a-506 in due  
56 course of law. Such court order shall further command some suitable  
57 person to convey such person to such hospital for psychiatric  
58 disabilities and deliver him or her, with a copy of such order and of  
59 such [certificates] certificate, to the keeper thereof. In appointing a  
60 person to execute such order, the court shall give preference to a near  
61 relative or friend of the person with psychiatric disabilities, so far as  
62 the court deems it practicable and judicious. Notice of any action taken  
63 by the court shall be given to the respondent and his or her attorney, if  
64 any, in such manner as the court concludes would be appropriate  
65 under the circumstances.

66 Sec. 502. Subsection (c) of section 17a-506 of the general statutes is  
67 repealed and the following is substituted in lieu thereof (*Effective*  
68 *October 1, 2016*):

69 (c) Any person for whom a conservator of the person has been  
70 appointed in accordance with sections 45a-644 to 45a-662, inclusive,  
71 may request admission to a hospital for psychiatric disabilities and  
72 such hospital may admit such person. The hospital shall notify the  
73 conservator and the probate court which appointed the conservator of  
74 the admission not later than five business days after such admission.  
75 The probate court shall, not later than ten business days after such  
76 notice, appoint a physician who is a psychiatrist from the list provided  
77 by the Commissioner of Mental Health and Addiction Services as set  
78 forth in subsection (c) of section 17a-498, as amended by this act. The  
79 physician shall examine the patient [within ten business days of his]  
80 not later than ten days after the date of his or her appointment to  
81 determine if the patient has given informed consent to his or her  
82 hospitalization. The physician shall make a report forthwith to the  
83 court. If the court concludes that the patient did not give informed

84 consent to the hospitalization, the court, on its own motion, may  
85 proceed in the manner provided in subsections (a), (b), (c) and (f) of  
86 section 17a-498, as amended by this act. All costs and expenses,  
87 including Probate Court entry fees, shall be paid by the patient or, if he  
88 has a conservator of the estate, by such conservator.

89 Sec. 503. Section 17a-542 of the general statutes is repealed and the  
90 following is substituted in lieu thereof (*Effective October 1, 2016*):

91 Every patient treated in any facility for treatment of persons with  
92 psychiatric disabilities shall receive humane and dignified treatment at  
93 all times, with full respect for [his] the patient's personal dignity and  
94 right to privacy. Each patient shall be treated in accordance with a  
95 specialized treatment plan suited to [his] the patient's disorder. Such  
96 treatment plan shall include a discharge plan which shall include, but  
97 not be limited to, (1) reasonable notice to the patient of his or her  
98 impending discharge, (2) active participation by the patient in  
99 planning for his or her discharge, and (3) planning for appropriate  
100 aftercare to the patient upon his or her discharge. Subject to the  
101 privacy protections afforded a patient under federal law, including,  
102 but not limited to, the Health Insurance Portability and Accountability  
103 Act of 1996 (P.L. 104-191), as amended from time to time, the head of a  
104 facility may direct that any person involved in the formulation of the  
105 patient's treatment plan or discharge plan communicate with, and  
106 obtain medical records from inpatient and outpatient health care  
107 providers who have previously treated the patient. In addition, when  
108 formulating such treatment plan or discharge plan, persons involved  
109 in the formulation of such plans may also communicate with any  
110 person with whom the patient has resided in the twelve-month period  
111 prior to being admitted to the facility and with the patient's spouse,  
112 parents, siblings or children in order to better understand the patient's  
113 medical needs.

114 Sec. 504. Subdivision (1) of section 17a-540 of the general statutes is  
115 repealed and the following is substituted in lieu thereof (*Effective*  
116 *October 1, 2016*):

117 (1) "Facility" means any inpatient or outpatient hospital, clinic,  
118 skilled nursing facility or other facility for the diagnosis, observation or  
119 treatment of persons with psychiatric disabilities;

120 Sec. 505. (NEW) (*Effective October 1, 2016*) (a) As used in this section:

121 (1) "Facility" means any inpatient or outpatient hospital, clinic,  
122 skilled nursing facility or other facility for the diagnosis, observation or  
123 treatment of persons with psychiatric disabilities;

124 (2) "Patient" means any person being treated in a facility;

125 (3) "Head of the facility" means the superintendent or medical  
126 director of a facility, or his or her designated delegate;

127 (4) "Informed consent" means permission given competently and  
128 voluntarily after a patient has been informed of the reason for  
129 treatment, the nature of the proposed treatment, the advantages or  
130 disadvantages of the treatment, medically acceptable alternative  
131 treatment, the risks associated with receiving the proposed treatment  
132 and the risk of no treatment; and

133 (5) "Direct threat of harm" means the patient's clinical history  
134 demonstrates a pattern of serious physical injury or life-threatening  
135 injury to self or to others that is caused by the psychiatric disabilities  
136 with which the patient has been diagnosed and is documented by  
137 objective medical and other factual evidence. Such evidence of past  
138 pattern of dangerous behavior shall be manifested in the patient's  
139 medical history and there shall exist a high probability that the patient  
140 will inflict substantial harm on himself, herself or others.

141 (b) Prior to discharging a patient from a facility, if it is determined  
142 by the head of the facility and two qualified physicians that (1) (A) a  
143 patient who is to be discharged from the facility is capable of giving  
144 informed consent but refuses to consent to take medication for  
145 treatment of the patient's psychiatric disabilities, or (B) a patient has a  
146 demonstrated history of failure to take medications prescribed for the

147 treatment of his or her psychiatric disabilities, (2) there is no less  
148 intrusive beneficial treatment, and (3) without medication, the  
149 psychiatric disabilities with which the patient has been diagnosed will  
150 continue unabated and place the patient or others in direct threat of  
151 harm, the head of the facility may apply to the Probate Court for  
152 appointment of a conservator of the person with specific authority to  
153 consent to the administration of medication after discharge from the  
154 facility or, in a case where a conservator of the person has previously  
155 been appointed under section 45a-650 of the general statutes, the head  
156 of the facility or the conservator may petition the Probate Court to  
157 grant such specific authority to the conservator. Pursuant to this  
158 subsection, the Probate Court may appoint a conservator with such  
159 specific authority if the court finds by clear and convincing evidence  
160 that the patient refuses to consent to medication for the treatment of  
161 the patient's psychiatric disability or has a demonstrated history of  
162 failure to take medications prescribed for the treatment of his or her  
163 psychiatric disabilities and such medication is necessary for the  
164 patient's treatment. The authority of a conservator to consent to the  
165 administration of medication under this subsection shall be effective  
166 for not more than one hundred twenty days following the date of the  
167 patient's discharge from the facility.

168 (c) If, after being discharged from a facility, a patient fails or refuses  
169 to take medication ordered by a prescribing practitioner and such  
170 patient has a conservator of the person vested with the authority to  
171 consent to the administration of medication pursuant to subsection (b)  
172 of this section, such conservator may consent on behalf of the patient  
173 to the administration of such medication and the patient may be  
174 medicated over his or her objection. Such medication shall be  
175 administered in a manner and place that, in the best judgment of the  
176 prescribing practitioner, is clinically appropriate, safe and consistent  
177 with the dignity and privacy of the patient. A conservator of the  
178 person appointed pursuant to subsection (b) of this section may  
179 request that state or local police or a licensed or certified ambulance  
180 service assist in transporting the patient to a designated location for

181 the purpose of administering the medication."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2016</i>	17a-498(c)
Sec. 502	<i>October 1, 2016</i>	17a-506(c)
Sec. 503	<i>October 1, 2016</i>	17a-542
Sec. 504	<i>October 1, 2016</i>	17a-540(1)
Sec. 505	<i>October 1, 2016</i>	New section